

(c) This was due to the defects in the 220 K.V. double circuit transmission lines between Sharavathy and Hubli.

(d) Such defects in the 220 K.V. transmission lines are rare. However, all efforts are made to minimise such frequent obstructions in the supply of electricity.

Airstrip at Hassan

968. SRI B.H. LAKSHMANAIAH (Belur).—Will the Minister for Education be pleased to state;—

(a) whether the Government is aware that Airstrip was sanctioned at Hassan long back to attract more Foreign Tourists to Belur Halebid and Shravanabelagola.

(b) the estimated amount for this Airstrip and the amount spent so far;

(c) The steps Government has taken so far to complete the Airstrip and to open it for tourist traffic and its present stage?

SRI B. SUBBAIAH SHETTY (Minister for Education).—

(a) Yes.

(b) No amount has been spent by Government of Karnataka for the construction of this Aerodrome as it is a Central Government Aerodrome and is maintained by the Civil Aviation Department Government of India.

(c) Government have requested the Civil Aviation Department Government of India to complete the remaining works, if any to Hassan Airfield.

Notice of a Question of Privilege:

Re : Opinion of the Chief Justice of Karnataka questioning the authority of Legislature in enacting the K.C.S. Bill 1978

SRI C. M. ARUMUGHAM (K.G.F.).—Sir, I have sent a Privilege Motion under Rule 177. According to the Rules of Procedure and Conduct of Business in the House, the Privilege Motion should be taken after the Question Hour. I request the Hon. Speaker to kindly permit me to raise this issue.

MR. SPEAKER.—The hon. Member cannot straight-away raise it. He has to convince me. He can make a preliminary submission.

† SRI C.M. ARUMUGHAM.—I would beg to submit to the Chair that I would make a preliminary submission so that it would enable the Hon. Speaker to decide whether there is any Breach of Privilege is involved or the Contempt of the House is involved in this case. For the first time in India, after the Britishers entered into this country in 1600, it was in 1861, they have established a Legislature in our country, and the first Legislature did not have any power, privilege or immunity. The then Rules of procedure and the regulations of the Assembly and Council were regulated by the Governor General and it was in 1909, the Legislature was established with more elected members, i.e., consisted with majority of elected members. Even then, the Rules of Procedure and Conduct of Business in the House were regulated by the British Government i.e., the Governor-General. It was only in the year 1935, some privileges were given to the members of the Assembly like the privilege of freedom of speech which contemplates that no Member shall be prosecuted for anything said or done inside the Assembly or the Parliament.

This is what Dr. Babasaheb Ambedkar has said on the Floor of the Constituent Assembly:

“Unfortunately for us, as the hon. Members will know, the Act of 1935 conferred no privileges and no immunities on the Parliament and its Members. All that is provided for was a signal provision that there shall be freedom of speech and no member shall be prosecuted for anything said in the debate inside the Parliament.”

These are the privileges and immunities that were available to the Members of Parliament under the 1935 Act. But, it is only after the Independence and framing of our own Constitution, certain privileges and immunities are available to the Members of the Assembly, Council and the Parliament. Article 208 of our Constitution says that the privileges, immunities and the Rules of Procedure and Conduct of the Business in the House should be framed by the House itself instead of framing the same by somebody else, either the Governor or the Governor-General. Then, Sir, Article 168 of the Constitution provides for a Legislature in every State which shall consist of the Governor. According to this Article, the Governor is also a part of the Legislature. The Legislature when it is established in any State, there shall be a Governor. Therefore, the Governor also forms a part of the Legislature. Of course, the powers, privileges and immunities of the State Legislatures and their Members are incorporated in Article 194 (1), (2), (3) and (4) of the Constitution. But for whatever not said, it is also opined by several Courts in this country, that the same powers and privileges as are enjoyed by the Houses of Commons are

applicable to the Houses of the Legislatures to a certain extent. Then, Sir, Article 212(1) of the Constitution lays down that the proceedings in the Legislature of the State shall not be called in question on the ground of any alleged irregularity of the procedure. The Legislature, so far as this Article is concerned, is a sovereign body. The House of Commons is a sovereign body of unlimited powers but here, it is limited in a sense that it should function within the frame-work of our Constitution, and within the four walls of the House. Therefore, the rights and immunities are essential for the functioning of the Parliamentary and Legislature apparatus. The rights and immunities are claimed and enjoyed by the Assembly and its Members on behalf of the citizens whom they represent in the discharge of their duties. Here, it is sovereign because the Members of the Assembly are elected by the people. The Members of the Assembly represent the people in the House. The House must be sovereign. It cannot be subordinate to any other institution, in this country. It has been declared by several Courts that it is sovereign. For the benefit of the Hon. Speaker, I would like to read a ruling given by the West Bengal High Court which was reported in the year 1956. It reads thus:—

“The Constitution has allotted certain powers exclusively to the local legislature. Within its own allotted sphere and subject to the Constitution, the State Legislature is supreme and has sovereign powers, since sovereignty means nothing more than an absence of outside interference....”

SRI H. GANGADHARAN. — The supremacy of the House has not been questioned by anybody.

MR. SPEAKER. — You know certain things but allow the hon. Member to have his say.

SRI C M. ARUMUGHAM. — Sir, I am dealing with a little sensitive and a very important issue. Whatever he wants to say, let him say afterwards. I am not coming in the way of any hon. Member.

Sir, the House is supreme and has got sovereign powers. The ruling of the West Bengal High Court further says thus:—

“But this is because the Constitution itself grants such a right. There is no question of any extraneous causes or overriding implications. There is however no question of the component States being mere administrative units, acting as agents of the Central Government, as during the British regime. Our Constitution combines the features of a federation as well as of an unitary system. In times of emergency the federal Government can even be made into an unitary one.....”

So, nobody can interfere with the functions of the Legislatures.

1.00 P.M.

Sri, in the State there are three units. One is Legislature; another is Judiciary and other one is Executive. So far as Constitution is concerned the Executive is responsible to the Legislature. We can remove the executive i.e., the Government by passing a no-confidence motion against it. But we have no right or power over the High Court. Because the judiciary is an independent body. It is not subordinate to the Legislature and we cannot question them not the High Court can question the Legislature in all matters including the passing of Bills, Debates, Call Attention Motions and Privilege issue. The questioning of these things can only be done within the four walls of the Legislature by the elected Members of this August House. Therefore, Sir, the Legislature has to be trusted. It should be trusted in the sense men of competence, men of legal knowledge and men who have devoted attention for the cause of the State and the people are being elected as Members of this August House. Therefore the Legislature must be trusted in its performance. This has been amply made clear by a Supreme Court Judge while delivering a minority judgment. I will read the relevant portion.

“ I wish to add that I am not one of those who feel that a Legislative Assembly cannot be trusted with an absolute power of committing for contempt. The Legislatures have by the Constitution been expressly entrusted with more important things. During the fourteen years that the Constitution has been in operation, the Legislatures have not done anything to justify the view that they do not deserve to be trusted with power. I would point out that though Art. 211 is not enforceable the Legislatures have shown an admirable spirit of restraint and have not been once in all these years discussed the conduct of Judges. We must not lose faith in our people, we must not think that the Legislatures would misuse the powers given to them by the Constitution or that safety lay only in judicial correction. Such correction may produce friction and cause more harm than good. In modern State it is often necessary for the good of the country that parallel powers should exist in different authorities. It is not inevitable that such powers will clash. It would be defeatism to make the view that in our country men would not be available to work those powers smoothly and in the best interests of the people and without production friction. I sincerely hope that what has happened will

never happen again and our Constitution will be worked by the different organs of the State amicably, wisely, courageously and in the spirit in which the makers of the Constitution expected them to act. "

So, Sir in order to provide better living conditions to the have-nots and to bring them on par with the other privileged class, the Legislature is empowered to bring different Acts for different areas and for different people. It so happened in Kerala. In Kerala they have brought an amendment to the rules of procedure. The said amendment to rules of procedure was objected to by somebody and they challenged that amendment in the High Court. In that petition the High Court held that they cannot make rules for certain set of people or certain castes. Then, an appeal was filed in the Supreme Court against that decision I will read the relevant portion of the judgment given in this case by the Supreme Court in State of Kerala Vs. N.M. Thomas (A I.R. 1976 page 499),

"The Legislature understands and appreciates the need of its own people that its laws are directed to problems made manifest by experience and its discriminations are made upon adequate grounds."

So, the Legislature appreciates the problems and in that background it has brought some law for the upliftment of the people and for their welfare. Of course, that law may not be applicable to all. But still it has been done in the interest of certain section of people. Supposing the State Government feels that certain law is necessary for Mangalore people including Sri Subbayya Shetty, this House is competent to enact such a law. I would like to quote what Justice Kailasam, Judge of the Supreme Court has said:

"The duty of the courts is to interpret and construe the provisions of an enactment and they have no power to legislate and to frame rules" this according to Mr. Justice P. S. Kailasam of the Supreme Court.

In a recent judgment Mr. Justice Kailasam said "Interpretation or construction meant the process by which the courts sought to ascertain the meaning of the legislature through the medium of the authoritative forms in which it was expressed".

So Sir, the Legislature can take different measures for different areas and for different people. Now, so far as Karnataka is concerned, there is inadequate representation for Scheduled Castes and Scheduled Tribes in the High Court of Karnataka and also in other subordinate judiciary. While answering a question in respect of

inadequate representation in judiciary the Hon.Chief Minister has stated like this:

Unfortunately in the judiciary they have gone on with their own method of rules of recruitment. The resultant effect being the Scheduled Caste and Scheduled Tribes candidates have not been given adequate representations and there is lack of representation in the judiciary at all levels. That is why we have introduced an amendment and I hope it has been passed. I am saying this subject to verification. The rules have to be provided and we shall see that the Constitutional obligation is adhered to in the judiciary and proper representations are given to the Scheduled Castes and Schedule Tribes.

In that context we have passed what is called Karnataka State Civil Services Bill, 1978. The Bill was passed in August 1978. I will read clause (4) of that Act.

“4. Reservation of appointments and posts.— In all cases of recruitment to public services there shall be reservation of appointment or posts in favour of members belonging to Scheduled Castes, Scheduled Tribes and other Backward classes of citizens to such extent and in such manner as may be determined from time to time by the State Government.

If assent is given to this Bill, the High Court must frame rules according to that Act. Under article 229 the Chief Justice is empowered appoint the officers and servants of the High Court but subject to the provisions of the Bill which we have passed. When the High Court makes appointments, they must be according to the law passed by the legislature. The Supreme Court says that we have the right to pass a legislation under article 229 of the Constitution. The Chief Justice can appoint but the service conditions should be regularised as per the enactment of the legislature. This has been well said in the State of Andhra Pradesh V/S Gopala Krishnan (Page 123 A.I.R. 1976) This is the wording :

“If there is a law made by the Legislature of the State then subject to that law, otherwise without it, the Chief Justice are some other Judge or officer of the Court authorised by the Chief Justice is empowered to make rules laying down the conditions of service of the High Court staff. But if the Rules made under clause (2) of Art.229 relate to salaries, allowances or pensions then since in them is involved the question of finance the framing of the rules requires the approval of the Government, that means the State Government.”

The approval of the State Government is required. For other service matters we are competent. The High Court must frame rules as per the enactment of the legislature. This goes to prove that we can make a law under article 229 of the Constitution. Further, without the previous approval of the Governor if rules are framed by the High Court regarding the salaries and service conditions, they become null and void: This is well established by the decision of the Supreme Court.

Now, coming to the Bill, the Hon. Minister for Law while replying to the debate said that the Bill has not been given assent to. But I have established with all facts that the House is competent to enact legislation under article 229 and the rules must be framed by the High Court according to the Law which we have passed. The hon. Law Minister while replying to the debate pertaining to his Demands said :

“In this context some of the vested persons who have occupied high position and who on account of their large number and economic and educational advancement want to come in the way of law being made in the State, I should tell the House that deliberately not even a single member of the Opposition opposed the attitude of the Chief Justice in interfering with the law passed by both the Houses of Legislature.”

This amounts *prima facie* to interference by an outsider in the performance of the duties of the legislature. Governor is also part of the Legislature in so far as giving of assent is concerned. The process of legislation commences from the introduction of the Bill and then comes the first reading, second reading and then the final reading and the final stage is getting the assent of the Governor. It has been said that the Chief Justice has written a note on the file that this House is not competent to enact this legislation.

SRI S.R. BOMMAI (Hubli).—Sir, rule 177 says :

“A member may, with the consent of the Speaker, raise a question involving a breach of privilege either of a member, or of the Assembly or a Committee thereof.”

Rule 178 says :

“A member wishing to raise a question of privilege shall give notice in writing to the Secretary before the commencement of the sitting on the day the question is proposed to be raised. If the question raised is based on a document, the notice shall be accompanied by the document.”

The hon. Member Sri Armugham has raised a very important and sensitive question. I don't deny and I also agree with all that he has stated about the sovereignty of this House. There is no second opinion so far as the competency of this House in passing this law is concerned, which deals with the promotion of the interests of the Backward Classes and Scheduled Castes. I would like to make it clear that this Bill was passed unanimously in this house. In the notice given by Sri Arumugham there is a reference to Hon'ble Chief Justice of the High Court and if I remember correctly during the debate on the Demands for grants pertaining to Administration of Justice the Hon. Minister for Law said that the Hon. Chief Minister had a discussion with the Hon. Chief Justice of the High Court and that he also sought his opinion on the Bill. I do not know what file was submitted to the Chief Justice, who submitted it and what was the opinion of the Chief Justice. They are relevant documents and they must be placed on the table of the House and the notice must be accompanied by them. Otherwise, will be discussing in vacuum. That, I want to make clear. I do not question the right of the hon. member of this House to raise a privilege question. If it is a privilege question, however exalted position a person may hold, it must be discussed. Sovereignty of this House and rights and privileges of every member of this House must be upheld. At the same time when we discuss such an important issue all those documents must be placed on the Table. On the question of principle there is no disagreement at all. Whether there was interference, whether it tantamounts to breach of privilege, all the would be relevant if all the correspondence between the Chief Justice and the Chief Minister on which the hon. member bases his argument must be placed on the Table of the House. According to rules if the hon. member relies on a particular documents it must accompany the notice. Otherwise notice cannot be taken note of by the Speaker or this House. We do not know what is there in the file. Therefore my preliminary objection is the notice is not proper and it is not accompanied by necessary documents on which the hon. member wants to rely. Unless the document is accompanied with the notice we cannot discuss it. My hon. friend is entitled to make preliminary submissions to convince the Speaker to grant permission. Before that I raise preliminary objection that the notice is defective. Therefore, my submission is let all the documents be placed on the Table of the House. Let all the members of this House including my friend Sri C.M. Armugham, have a look at the documents. Then the matter be raised. Until that time the matter may be held over. That is my submission.

SRI J. H. PATIL.—Sir,...

SRI D. DEVARAJ URS (Chief Minister).—Let there be no confusion. There was a discussion on this privilege notice given by the hon member and the Hon. Leader of the Opposition has raised a point of order. Unless that is disposed of in one way or the other, there cannot be any number of points of order. I am making a submission. Otherwise how can the House dispose of ten points of order at one time? So, the objection raised whether relevant or not be pleased disposed of. Then if any other point of order is raised that can also be disposed of—

† ಜಿ.ಎಚ್. ಪಟೇಲ್ (ಚನ್ನಗಿರಿ).— ಸ್ವಾಮಿ, ಮಾನ್ಯ ವಿರೋಧಪಕ್ಷದ ನಾಯಕರು ಹೇಳಿರ ತಕ್ಕಂಥ ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್‌ಗಿಂತಲೂ ಇನ್ನೂ ಮುಂಚಿತವಾಗಿ ಈ ವಿಷಯ ಇಲ್ಲಿ ಪ್ರಸ್ತಾಪವಾಗುತ್ತಾ ಇದೆಯಲ್ಲ, ಈ ವಿಷಯ ಇಲ್ಲಿ ಕಾನೂನಿಗೆ ವಿರುದ್ಧವಾಗಿ ಪ್ರಸ್ತಾಪವಾಗುತ್ತಾ ಇದೆ. ಇದು ಹೇಗೆ ಎಂಬುದನ್ನು ನಾನು ಹೇಳುತ್ತೇನೆ. ಮಾನ್ಯ ಸದಸ್ಯರಾದ ಶ್ರೀಮಾನ್ ಆರ್ಮುಗಂಥರವರು ಬಹಳ ವಿಸ್ತಾರವಾಗಿ ಈ ಸದನದ ಸದಸ್ಯರ ಒಂದು ಸರ್ವೋಚ್ಚತೆ ಹಾಗೂ ಅವರ ಶಕ್ತಿಯ ಬಗ್ಗೆ ಮಾತನಾಡುತ್ತಾ ಹೋದರು. ಅವರು ಆ ಕಾರ್ಯ ಮಾಡುವುದಕ್ಕೆ ತಾವು ಬಿಟ್ಟಿದ್ದು ಸರಿಯಲ್ಲ ಎಂದು ನಾನು ಹೇಳುತ್ತಿದ್ದೇನೆ. ಏಕೆಂದರೆ ರೂಲ್ ೧೬೦ರ ಪ್ರಕಾರ ಮಾನ್ಯ ಅಧ್ಯಕ್ಷರು ಅದಕ್ಕೆ ಕನ್‌ಸೆಂಟ್ ಕೊಟ್ಟರೆ ಮಾತ್ರ ಆ ವಿಚಾರ ಹೇಳಬಹುದು ಎಂದು ಇದೆ. ಅಂದರೆ ತಾವು ಅದಕ್ಕೆ ಕನ್‌ಸೆಂಟ್ ಕೊಟ್ಟಿದ್ದೀರಿ ಅಂತ ಅಲ್ಲ; ತಾವು ಕನ್‌ಸೆಂಟ್ ಕೊಡುವುದಕ್ಕೆ ಮುಂಚೆ ಏನಾದರೂ ಪೂರ್ವಭಾವಿಯಾಗಿ ಅವರು ಹೇಳುತ್ತಾರೇನೋ ಎಂದು ತಾವು ಕೇಳುವುದಕ್ಕೆ ಅವಕಾಶ ಕೊಟ್ಟಿದ್ದೀರಿ. ಅವರಿಗೆ ತಾವು ಕನ್‌ಸೆಂಟ್ ಕೊಟ್ಟಿಲ್ಲ. ಈ ಬಗ್ಗೆ ಕನ್‌ಸೆಂಟ್ ಕೊಡುವುದಕ್ಕೆ ಮುಂಚೆ ಮಾನ್ಯ ಅಧ್ಯಕ್ಷರು ಏನು ಮಾಡಬೇಕು ಎಂದರೆ ನಿಯಮದ ಪ್ರಕಾರ, ಅವರ ಮೇಲೂ ನಿಯಮಗಳು ಇವೆ, ಅದರಲ್ಲಿ ಪ್ರಿವಿಲೀಜ್ ಇಷ್ಟೂ ಮೇಲೆ ಒಂದು ನಿಯಮ ಏನಿದೆ ಎಂದರೆ.....

“A question of privilege may be raised in the House only after obtaining the consent of the Speaker :

(a) this has been made obligatory so that the time of the House is not taken up by raising a matter which, on the face of it, is not admissible ;

(b) A member who wishes to raise a question of privilege is, therefore, required to give notice in writing to the Secretary, before the commencement of the sitting on the day the question is proposed to be raised ;

(c) If the question of privilege is based on a document, the notice must be accompanied by that document ;

(d) On receipt of the notice, the matter is considered by the Speaker who may either give or withhold his consent to the raising of the question of privilege in the House.”

At this stage we have committed a mistake. ಅವರು ಈ ಸದನದ ಹಕ್ಕು ಭಾಷ್ಯಕ್ಕೆಗೆ ಚುಕ್ಕೆ ಬಂದಿದೆ ಎಂದು ಹೇಳುವಾಗ ಯಾರೇ ಅಗಲಿ ಇಲ್ಲಿ ಸರ್ವೋಚ್ಚರಲ್ಲ. ಈ ಸದನ ಸರ್ವೋಚ್ಚ ಎನ್ನುತ್ತಕ್ಕಂಥ ಭಾವನೆ ಏನಿದೆ ಅದೂ ಸರ್ವೋಚ್ಚ ಅಲ್ಲ. ಈ ಸದನ ಸರ್ವೋಚ್ಚ ಅಲ್ಲ. ಈ ದೇಶದಲ್ಲಿರತಕ್ಕಂಥ ಜನತೆ ಸರ್ವೋಚ್ಚ, ನಂತರ ಇಡೀ ಸದನವನ್ನು, ಲೋಕಸಭೆಯನ್ನು, ಎಲ್ಲಾ ರಾಜ್ಯ

ಸರ್ಕಾರಿಗಳನ್ನು ಹೆಚ್ಚಿನದಾಗಿ ಇಟ್ಟುಕೊಳ್ಳಲು ಇರತಕ್ಕಂಥ ಕಾನೂನುಬಾಹಿರ ಸರ್ವೋಚ್ಚ ನಾವು ಸರ್ವೋಚ್ಚ ಅಲ್ಲ. ಇದರ ಪ್ರಕಾರ ನಾವು ನಡೆದರೆ ನಾವು ನಡೆದದ್ದು ಸರಿ. ಇದಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ ನಡೆದರೆ ನಮ್ಮ ನಡೆವಳಿಕೆ ತಪ್ಪು ಎಂದು ಹೇಳತಕ್ಕಂಥ ಬೇರೆ ಬೇರೆ ಅಂಶಗಳು ಇವೆ. ಇದನ್ನು ನಾವು ಏನು ಸರ್ವೋಚ್ಚ ಎಂದು ಕರೆಯುತ್ತೇವೆ, ಭಾರತದ ಜನತೆ ನಮಗೋಸ್ಕರ ಕೊಟ್ಟಿರತಕ್ಕಂಥ ರಾಜ್ಯಾಂಗದಲ್ಲಿ ಇರತಕ್ಕಂಥ 200 ಅರ್ಟಿಕಲ್ ಇದನ್ನು ಬಹಳ ಸ್ಪಷ್ಟವಾಗಿ ಹೇಳುತ್ತಿದೆ, ಅದರಲ್ಲಿ ಏನು ಹೇಳಿದೆ ಎಂದರೆ Act. 211 :

No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme

Court or of a High Court in the discharge of his duties ಎಂದು ಹೇಳಿದೆ. ಅದರಂತೆ ತಮಗೆ ಈ ಪ್ರಿವಿಲೇಜ್ ನೋಟೀಸ್ ಬಂತಲ್ಲ. ಈ ನೋಟೀಸ್‌ನಲ್ಲಿ ಅವರು ಏನು ವಿಷಯ ಪ್ರಸ್ತಾಪ ಮಾಡುತ್ತಾರೆ ಎನ್ನತಕ್ಕದ್ದಾದ್ದು ತಮ್ಮ ಗಮನಕ್ಕೆ ಬಂದಿರಬೇಕು. ಅದು ತಮ್ಮ ಗಮನಕ್ಕೆ ಬಂದಾಗ ಅದು ಯಾವುದೇ ರೀತಿಯಿಂದಾಗಲೀ ಒಬ್ಬ ಶ್ರೇಷ್ಠ ನ್ಯಾಯಾಲಯದ ಒಬ್ಬ ನ್ಯಾಯಾಧೀಶ ತನ್ನ ಕಾರ್ಯನಿರ್ವಹಣೆ ಕಾಲದಲ್ಲಿ ಮಾಡಿರತಕ್ಕಂಥ ಯಾವುದೇ ಕ್ರಮಕ್ಕೆ ಅಥವಾ ಆಕ್ಷೇಪಣೆಗೆ ಅವನ ವಿರುದ್ಧವಾಗಿ ಮಾತನಾಡುವುದಕ್ಕೆ ಈ ಸ್ಟೇಟ್ ಲೆಜಿಸ್ಲೇಚರ್‌ಗೆ ಅಧಿಕಾರವಿಲ್ಲ ಎಂದು ರಾಜ್ಯಾಂಗದಲ್ಲಿ ಹೇಳಿದ ಮೇಲೆ ತಾವು ಅದನ್ನು ಹೇಗೆ ಅಲೋ ಮಾಡಿದಿರಿ? ತಾವು ಅದನ್ನು ಪರಿಶೀಲನೆ ಮಾಡಿ ಏನು ಹೇಳಬೇಕಾಗಿತ್ತು ಎಂದರೆ ಈ ವಿಷಯ ವನ್ನು ಪ್ರಸ್ತಾಪ ಮಾಡುವುದಕ್ಕೆ ಈ ಸದನಕ್ಕೆ ಹಕ್ಕು ಇಲ್ಲ, ಅಧಿಕಾರ ಇಲ್ಲ, ಆದ್ದರಿಂದ ಈ ವಿಷಯ ವನ್ನು ಇಲ್ಲಿ ಪ್ರಸ್ತಾಪ ಮಾಡುವುದಕ್ಕೆ ನಾನು ಅವಕಾಶ ಕೊಡುವುದಿಲ್ಲ ಎಂದು ತಾವು ಹೇಳಬೇಕಾಗಿತ್ತು. ಅದನ್ನು ತಾವು ಹೇಳಲಿಲ್ಲ. ಆದ್ದರಿಂದ ಈಗ ಈ ವಿಷಯವನ್ನು ಇನ್ನು ಮುಂದೆ ಕೂಡ ಮುಂದುವರಿಸಿ ಕೊಂಡು ಹೋಗುವುದಕ್ಕೆ ತಾವು ಬಿಡಕೂಡದು. ಮಾನ್ಯ ಸದಸ್ಯರು ಯಾವ ವಿಷಯವನ್ನು ಇಲ್ಲಿ ಮಾತನಾಡಬೇಕೆಂದಿದ್ದಾರೋ ಆ ವಿಷಯವನ್ನು ತಾವು ಆ ಸದಸ್ಯರನ್ನು ಕರೆಸಿ ಮಾತನಾಡಿ ಅದನ್ನು ತಿಳಿದು ಕೊಂಡು ತಮ್ಮ ಮನಸ್ಸಿಗೆ ಸಮಾಧಾನವಾದರೆ, ಅದು ರಾಜ್ಯಾಂಗಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ ಇಲ್ಲದಿದ್ದರೆ ಆಗ ತಾವು ಅದನ್ನು ಅಲೋ ಮಾಡಿದರೆ ಆಗ ಆ ನೋಟೀಸ್ ಏನಿದೆ ಅದನ್ನು ಓದಿಸಿಬಿಟ್ಟು, ನೋಟೀಸ್‌ನಲ್ಲಿ ರತಕ್ಕಂಥ ಕನ್‌ಸೆಂಟ್‌ನ್ನು ಓದಿಸಿಬಿಟ್ಟು ತಾವು ಮುಂದುವರಿಯಬೇಕೇ ವಿನಃ ಅದನ್ನು ಹಾಗೆಯೇ ಬಿಟ್ಟು ಮುಂದುವರಿಯುವುದಕ್ಕೆ ಸಾಧ್ಯವಿಲ್ಲ. ಮಾನ್ಯ ಸದಸ್ಯರು ಜಗತ್ತಿನಲ್ಲಿ ಯಾವುದಾದರೂ ಸತ್ಯ, ಯಾವುದಾದರೂ ಅಸತ್ಯ ಎಂಬುದನ್ನು ಬಹಳ ಬ್ರಿಲಿಯಂಟ್ ಆಗಿ ಹೇಳಿದ್ದಾರೆ. ಅದು ವಾಸ್ತವಿಕವಾಗಿ ಅರ್ಟಿಕಲ್ 200ಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಿದೆಯೇ ಇಲ್ಲವೇ ಎಂಬುದು ತಮ್ಮ ಗಮನಕ್ಕೆ ಬಂದರೆ, ಈ ವಿಚಾರ ವನ್ನು ಇಲ್ಲಿ ಪ್ರಸ್ತಾಪ ಮಾಡುವುದಕ್ಕೆ ತಾವು ಅಲೋ ಮಾಡಿದರೆ ಕಾನೂನಿಗೆ ವಿರುದ್ಧವಾಗುತ್ತದೆ.

MR. SPEAKER.—I think hon. member Sri Arumugham must have heard what was stated by hon. members Sriyuths S. R. Bommai and J. H. Patel. Has he anything to say about it?

1-30 P.M.

SRI C. M. ARMUGHAM.—Sir, they have made two points: (1) my notice of breach of privilege is not accompanied by a document. My document in this case is the speech of the Law Minister Sri L.G. Havannur. What else I could produce? And (2) the objection raised by the hon. member Sri J. H. Patel is that the conduct of the Judge in the discharge of his duties has been questioned. I am not raising that point at all. The conduct of the Judge is not involved in the discharge of his duties. It is outside the purview of the High Court.

Sir, it will be interesting to note that some Judges are elected. In Russia and East Germany the judges are elected fixing some norms. In the Supreme Court of Japan the Judges are appointed once in 5 years and they are answerable to the electorate. The Judges in Canada formerly held office for life, but now they retire at the age of 75.

I am not questioning the conduct of the Judges. But, here the question is, noting on the file or giving opinion. Under the Constitution, the Chief Justice has no power to give any opinion on the Bill passed by the Legislature. I would like to submit that under Article 143 of the Constitution of India, the President alone is competent to seek the opinion on any law point from the Supreme Court and the Supreme Court is bound to give its opinion. Sir, our Prime Minister Sri Morarji Desai referred some of the allegations concerning his son to the Supreme Court, but the Supreme Court declined to give the opinion because under the Constitution the Chief Justice of the Supreme Court is not bound to give his opinion on such matters. I am not questioning the authority of the Judges in the discharge of their official duties. But here he has taken extraordinary constitutional powers either in rendering for the file or.....

SRI S. R. BOMMAI.—Sir, we are arguing in vacuum. The hon. member Sri Arumugham says that the Chief Justice has noted his opinion on the file. That itself must come first. It is on those documents that the Privilege Motion is based. The Hon'ble Minister for Law has not mentioned that the Chief Justice has noted his opinion on the file sent to him. That is not there in his speech.

SRI C. M. ARMUGHAM.—Has the hon. member got his speech before him?

SRI S. R. BOMMAI.—I have gone through it; I have perused it and there is no mention of the file being sent to the Chief Justice and his opinion having been written on the file. I have carefully gone through his speech.

The question is whether the Chief Justice while giving opinion on a file referred to him—by whom it was referred, whether by the Chief Minister or the Governor or the Law Minister—and for what purpose it was sent? If the Chief Minister has sent the file and sought his opinion, if it is addressed to the Chief Justice of Karnataka High Court, and if his opinion has been given on the file, whether he has acted as the Chief Justice or not is a question of fact. If he has given his opinion as the Chief Justice, we cannot discuss it here. If Sri D. Devaraj Urs writes a letter in his individual capacity and if Sri Chandrasekhar gives his opinion that is a different matter. If Sri

Devaraj Urs, as Chief Minister of Karnataka, seeks the opinion of Sri Chandrasekhar as Chief Justice of the Karnataka High Court, and an opinion is given that opinion would be that of Chief Justice of the Karnataka High Court. Therefore, unless that file is here, that correspondence is here, we will be entering into a dangerous arena of discussing and committing a mistake. After having scrutinised the file, we have got a right to discuss about it. If it is in the individual capacity, if it is not in the capacity of the Chief Justice, the House may discuss. Until that matter is cleared, my submission would be, let the Hon'ble Speaker order for the file being placed on the Table of the House. I am on with the hon. member Sri Arumugham so far as upholding the sovereignty of the House. But without having the facts and the records, our sovereignty is restricted. The Constitution is supreme and we are bound by it, as was also stated by the hon. member Sri Arumugham. Therefore, without going into the further discussion

MR. SPEAKER.—For the benefit of the hon. member I would like to read the proceedings (22-5 1979)

SRI B. V. KAKKILAYA.—Did the Chief Justice call for the file or was he asked to give his opinion or did he offer his opinion himself without even discussing the matter? What was the procedure followed by the Chief Justice?

SRI L. G. HAVANUR.—There is nothing that goes as a secret either in the Legislature, or Secretariat or High Court. I believe there was a discussion between the Hon'ble Chief Justice and the Hon'ble Chief Minister, and the Hon'ble Chief Minister wanted me to send the Bill to the Hon'ble Chief Justice. Then I sent the Bill with the file, and he expressed his opinion that neither the Parliament must less the State Legislature could make a law. Then I sent the opinion expressed by the Chief Justice for examination to the Law Department they differed from his opinion, and then I sent it to the Advocate General and he also differed from the opinion of the Chief Justice. I have not yet thought over it. I did not have enough time. I shall examine the opinions expressed by the Chief Justice, our Additional Law Secretary and the learned Advocate General and I shall come to my own conclusion as to whether this Legislature is competent to make reservation or not."

SRI S. R. BOMMAL.—So, let us have the file. There is a correspondence between the Chief Justice and the Law Minister. According to Rule 178 of the Rules of Procedure the file is absolutely necessary. Without the file we are discussing the matter in vacuum. There is a reference to the Chief Minister also. I do not know in what

capacity he should take the advice of the Chief Justice. The file may indicate all that, and let the Chief Minister also make the point clear.

SRI S. M. SHEERNALLY CHANDRASEKHAR.—Hon. Member Sri J.H. Patel has proved himself to be a very bad lawyer. Article 211 is very specific. The conduct of the judges cannot be questioned anywhere. Here it is not the conduct of the judge which is questioned but here is something else. A judge in his present capacity, can he interfere in the enactment of a certain bill? ನನಗೆ ಅರ್ಥವಾಗುವುದಿಲ್ಲ. ಒಂದು ಮಾತಿನಲ್ಲಿ ಶಾಸಕಾಂಗದ ಸರ್ವೋಚ್ಚವುಳ್ಳವನ್ನು ಕಾಪಾಡಿಕೊಂಡು ಬರಬೇಕೆಂದು ಹೇಳುತ್ತಾರೆ. ಇನ್ನೊಂದು ಮಾತಿನಲ್ಲಿ ಇದನ್ನು ತಂದದ್ದೇ ತಪ್ಪು ಎಂದು ಹೇಳುತ್ತಾರೆ. ಇದನ್ನು ಯಾವರೀತಿ ಅರ್ಥ ಮಾಡಿಕೊಳ್ಳಬೇಕು. ಜನರನ್ನು ಮೆಚ್ಚಿಸಲಿಕ್ಕೆ ಒಂದು ಮಾತು. ಪ್ರಿವಿಲೇಜ್ ಮೋಷನ್ ಅಲೋ ಆಗ ಬಾರದು ಎಂದು ಇನ್ನೊಂದು ಮಾತು. ಪ್ರಿವಿಲೇಜ್ ಮೋಷನ್ ಅಡ್ಡಿಸಿಬಿಡಿ ಪ್ರಶ್ನೆ ಬಂದಾಗ..... The Speaker may admit the privilege motion or he may give a ruling disallowing it; but the whole document can be examined.

SRI K. BHASKARNAIDU (BELLARY).—I want to know what is the ruling on the point of order raised so that this House can proceed further into the matter.

ಶ್ರೀ ಎಸ್. ಎಂ. ಶೀರನಾಥ ಚಂದ್ರಶೇಖರ್.—ಅಧ್ಯಕ್ಷರೇ, ನನಗೆ ಬಂದಿರುವ ವರ್ತಮಾನದ ಪ್ರಕಾರ.....

ಅಧ್ಯಕ್ಷರು.—ವರ್ತಮಾನದ ಪ್ರಕಾರ ಎಂದು ಹೇಳುವುದಿಲ್ಲ ಸರಿಯಲ್ಲ.

ಶ್ರೀ ಎಸ್. ಎಂ. ಶೀರನಾಥ ಚಂದ್ರಶೇಖರ್.—ಅಧ್ಯಕ್ಷರೇ, ಎಲ್ಲಾ ನ್ಯಾಯಾಂಗದಲ್ಲೂ ಕೂಡ ಹರಿಜನ ಗಿರಿಜನರಿಗೆ ನ್ಯಾಯವಾಗಿ ಕೊಡಬೇಕಾದಂತಹ.....

(ಗೊಂದಲ)

MR. SPEAKER.—At this stage I do not want the context of the matter.

ಶ್ರೀ ಜೆ.ಹೆಚ್. ಪಟೀಲ್.—ರೂಲ್ಸ್ ಪುಸ್ತಕದಲ್ಲಿ ನಿರ್ದಿಷ್ಟವಾಗಿ ಹರಿಕಥೆ ಮಾಡಬಾರದು ಎಂದು ಇದೆ.

ಶ್ರೀ ಎಸ್. ಎಂ. ಶೀರನಾಥ ಚಂದ್ರಶೇಖರ್.—ಅಧ್ಯಕ್ಷರೇ, ಮಾನ್ಯ ಸದಸ್ಯರು ರೂಲ್ ೧೭೯ ನೋಡಿಲ್ಲ. Rule 179 is very specific: "The right to raise a question of privilege shall be governed by the following conditions, namely:—

(i) not more than one question shall be raised at the same sitting;

(ii) the question shall be restricted to a specific matter of recent occurrence;

(iii) the matter requires the intervention of the Assembly."

This Assembly has passed a bill and it was placed before the Governor to get his assent. If the Hon. Chief Justice has

interfered in giving consent to this Bill, it is definitely an interference with the Legislature. So, it amounts to breach of privilege.

MR. SPEAKER.—Let Sri Arumugham answer the point. The Hon. Member Sri Chandrasekher should not argue on behalf of Sri Arumugham.

SRI S. M. SHEERNALLY CHANDRASEKHAR.—Sri Arumugham has yielded to me.

† ಶ್ರೀ ಬಿ. ವಿ. ಕಕ್ಕಿಲಾಯ (ವಿರೂಪ).—ಅಧ್ಯಕ್ಷರೇ, ಈ ಸದನದಲ್ಲಿ ಯಾವುದೇ ಸದಸ್ಯರು, ಮಂತ್ರಿಗಳು ಮುಖ್ಯ ಮಂತ್ರಿಗಳು ಮಾಡುವ ಭಾಷಣ ಜವಾಬ್ದಾರಿಯಂತವಾದುದು. ಅದನ್ನು ನಾವು ಅಧಿಕೃತ ದಾಖಲೆ ಎಂದು ತೆಗೆದುಕೊಳ್ಳಬಹುದು. ಮಾನ್ಯ ಸಚಿವರು ನಾನು ಪ್ರಶ್ನೆ ಕೇಳಿದ್ದಕ್ಕೆ ಸ್ಪಷ್ಟೀಕರಣ ಕೊಟ್ಟರು. ತಾವು ಕೂಡ ಅದನ್ನು ಓದಿ ಹೇಳಿದಿರಿ. ವ್ಯವಹಾರ ಯಾವರೀತಿ ನಡೆದಿದೆ ಎಂದು ಒಪ್ಪ ಕೊಟ್ಟವಾಗಿ ಈ ಸದನದಲ್ಲಿ ಹೇಳಿದ್ದಾರೆ. ನಾವು ಈ ವ್ಯವಹಾರವನ್ನು ಎರಡೂ ಸದನದಲ್ಲಿ ಮಂಜೂರು ಮಾಡಿದ್ದೇವೆ. ಇದಕ್ಕೆ ಅಂಗೀಕಾರ ಸಿಕ್ಕುವುದಕ್ಕೆ ಮಾನ್ಯ ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರು ತಡೆ ಬೀದರು ಯಾವ ರೀತಿ ತಡೆ ಬಂದಿದೆ ಎಂದು ಪೂರ್ತಿ ವಿವರಣೆಯನ್ನು ಈ ಸಭೆಯ ಮುಂದೆ ಹೇಳಿದ್ದಾರೆ, ನೋಟೀಸ್ ಜಾರಿಯಲ್ಲೇ ಕೊಡಬೇಕೆಂದು ಮಾನ್ಯ ವಿರೋಧ ಪಕ್ಷದ ನಾಯಕರು ಹೇಳುವುದು ಸಾಧ್ಯವಾದುದಲ್ಲ. ದಾಖಲೆ ಅಥವಾ ಮೇಲೆ ಈ ಸದನದಲ್ಲಿ ಚರ್ಚೆ ನಡೆಯುವುದು. ಈಗ ಅವರು ನಾನು ಹಾಗೆ ಹೇಳಿದ್ದು ಏನು ವಿಶ್ವಾಸ್ಯ ಮಾಡಿಲ್ಲ. ಅದಕ್ಕೆ ಅವರು ಈಗಲೂ ಗಟ್ಟಿಯಾಗಿ ನಿಂತಿದ್ದಾರೆ. ಈಗ ಅಧಿಕೃತ ದಾಖಲೆಯ ಮೇಲೆ ಸೂಚನೆ ಕೊಟ್ಟಿರತಕ್ಕದ್ದು.

ಶ್ರೀ ಹೆಚ್. ಗಂಗಾಧರನ್.—ಸೆಕೆಂಡ್ ಹ್ಯಾಂಡ್ ಇನ್‌ಫರ್ಮೇಷನ್ ಮೇಲೆ ಹೇಳಿದ್ದಾರೆ.

ಶ್ರೀ ಡಿ. ದೇವರಾಜ್ ಅರಸ್.—ತಾವು ಹೇಳತಕ್ಕ ಲೆಕ್ಕ ನೋಡಿದರೆ, ಮಂತ್ರಿಗಳ ಮೇಲೆ ಪ್ರಿವಿಲೇಜ್ ಮೋಷನ್ ತರಬೇಕಾಗುತ್ತದೆ; ನೀವು ತರುವುದು ಇದ್ದರೆ ತನ್ನ ಪರವಾಯಿಲ್ಲ. ಮಂತ್ರಿಗಳು ಹೇಳಿದ ಮಾತು ಸತ್ಯಕ್ಕೆ ದೂರವಾದುದು ಆಗಿದ್ದರೆ..... Unless what the Minister has stated on the floor of the House is far from truth, it is not factual, then the Minister will be answerable. So long as he sticks to it, then I think if we raise the question more and more, we will get deeper and deeper.

ಶ್ರೀ ಬಿ. ವಿ. ಕಕ್ಕಿಲಾಯ.—ಸ್ವಾಮಿ, ಫೈಲು ಏನು ಕೇಳುತ್ತಿದ್ದಾರೆ ಅದನ್ನು ಈ ಘಟ್ಟದಲ್ಲಿ ತೆಗೆದುಕೊಳ್ಳುವ ಅವಶ್ಯಕತೆ ಇಲ್ಲ.

SRI S. R. BOMMAI —My only submission is to adhere to the rules. The Hon. Minister has made a statement on the basis of the file he possessed. We shall presume, the entire statement is based on the documents in his possession. The question is; we are discussing a very important matter regarding the Chief Justice about the opinion passed by him on the file. Therefore the privilege is based on the opinion written by him on the file. What is the breach of privilege? The breach of privilege is the opinion written on the file. Therefore my objection is, if the question is based on a document, the notice shall be accompanied by the document. We are not discussing the veracity of the statement of the Hon. Minister for Law, his

statement is allright. The question is the act of the Chief Justice giving an opinion on the file, that is the question. The opinion of the Chief Justice should be before us.

SRI B. V. KAKKILAYA —That is not necessary at this stage.

SRI S. R. BOMMAI.—The correspondence is very important. If the Hon. Law Minister, according to the instructions of the Chief Minister, has sought the opinion of the Chief Justice of Karnataka and if the opinion is furnished in the capacity of the Chief Justice, can we discuss it? That is a sensitive point. How the correspondence is addressed and how the reply is given and what context, let us discuss it.

SRI K. BHASKARNAIDU.—The Hon. Leader of the Opposition has raised a point of order. I would like to know the ruling from the Chair.

MR. SPEAKER.—I have to consider all aspects and then give a ruling.

†**SRI A. LAKSHMISAGAR**(Chickpet).—I would like to supplement one more point for your consideration. The objection is raised by Sri Bommai under rule 177

Let us not go by technicalities. The Minister's statement only speaks about the opinion having been expressed by the Chief Justice. This is all what he states. This is the Minister's statement. But the House is very much like to know the entire opinion furnished by the Chief Justice. The reasons he has been advanced are about the opinion or the conclusions the Chief Justice has given. The second point is the stage at which the opinion of the Chief Justice was sought. The Karnataka State Civil Services Bill 1978 was passed by this House on 11-8-1978. The Council passed this Bill on 25th August 1978. On what day after the passage of the Bill, it was sent for the assent of the Governors Under Art. 200 of the Constitution. This information is also necessary. Has the Bill been sent to the assent of the Governor? The circumstances leading to the explanation or the opinion of the Chief Justice is also necessary. These are the two points that are necessary. These are two integral parts of the question that is sought to be raised. All these informations are necessary for a proper and meaningful discussion on the question that has been raised. Otherwise, as Mr. Bommai said, we will be arguing in a vacuum.

Then, I would like to say that this is a serious matter. Let us not deal with this matter in a hasty way. Because, we are opening a Pandora's box if we light heartedly treat this matter. Therefore, we

must take greatest care while dealing with this matter and come to a decision. My last submission is that under the Constitution the Chief Justice does not have the advisory jurisdiction. It is only under Art. 143 wherein the President of India could seek the opinion of the Judge of the Supreme Court. Then only the matter will be heard in the open court and all the Advocate Generals of the State Governments would be given notice and they would be permitted to make submissions. Thereafter the matter would be decided on the opinion furnished by the Supreme Court. So, it only under Art. 143, that a judge in the country—either Supreme Court or of High Court has to give his opinion. *Prima facie*, the High Court of Karnataka has not been given such advisory jurisdiction. It does not possess such a jurisdiction. Any opinion furnished by a Judge of the High Court or Chief Justice is an initiative without authority and Constitutionally null and void. It can be treated as a scrap of paper on which it is typed. Therefore, let us not talk much of it. If he is given any opinion, it is not binding on the House and he has not interfered in the functioning of the House. Therefore, let us not make too much out of it. There is nothing in it. Therefore, my submission is that the attempted move through this resolution is not one which does involve breach of privilege of either a Member of the House or of the House.

SRI D. DEVARAJ Urs:—I am sorry, I had no mind to intervene on the debate or on the point of order raised by the Hon. leader of the opposition. But I am in a way forced to intervene, because, in my opinion, if the arguments in support of the point of order raised were to go as interpretation of rules of procedure viz. 177, 178, 179 and 180, then I am afraid, we will be definitely going against the rules of procedure that we have been adopting in this House. I am constrained to intervene according to me. I would like to make the records straight. Sir, I don't think that the points raised by my friend on the other side, is relevant at this stage. Here, what I understand is, you as the Speaker of this House, you have been pleased to call upon the Member and allowed him to raise this privilege question. This is according to Rule 180... THIS rule 177 which has already been conceded in way. What is rule 177? Let me read it for the benefit of hon. Members.

“177—A Member may, with the consent of the Speaker, raise a question involving a breach of privilege either of a member, or of the Assembly or of a Committee thereof”.

They say that there is no question of breach of privilege involved. When does it arise? This is merely, what is the question of privilege. When it comes before you, you must have looked into rule

177. Having seen rule 177, you have again gone one step forward. You have got three course open. (i) without allowing the Members to raise on the floor of the House, you have every right to allow or disallow. You need not have allowed Mr. Armugham to raise this issue. Now, the question is that the Speaker has not ruled out it as out of order.

SRI S. R. BOMMAI.—Before the Chief Minister makes his point I would like to say one thing. It has been the convention in this House to make preliminary submissions under rule 177. That has been the convention followed in this House so far, even before giving consent under rule 177.

SRI J. H. PATEL.—Please read rule 180.

SRI D. DEVARAJ Urs.—These lawyers always confuse.

SRI J. H. PATEL.—They are helpful also to set it right.

2-00 P M.

ಶ್ರೀ ಬಿ. ದೇವರಾಜ ಅರಸ್ :—ಅಲ್ಲಿ ಹೇಳಿದ್ದನ್ನು ಹೇಳುತ್ತಿದ್ದೇನೆ, ನಾನು ಹೇಳುವುದು ಸರಿ ಯಲ್ಲವೆಂದು ಹೇಳುವುದಾದರೆ ಅಧ್ಯಕ್ಷರೇ ಸರಿ ಮಾಡಲಿ. Let us read Rule 180. Rule 178 says if the question raised is based on a document, the notice shall be accompanied by the document. That is a matter which is very simple. What is the document? He has raised a question of privilege on the statement made by a Minister on the floor of this House. It has gone into the document. Therefore, the record of the proceedings of this House is a document. You cannot bring some other document. If you ask the hon. Member to produce a document he can only produce what has been recorded. But here, what is the stage at which we are now? We are at the stage of rule 180. Under rule 179, the right to raise a question of privilege shall be governed by the following conditions: not more than one question shall be raised at the same sitting; the question shall be restricted to a specific matter of recent occurrence and the matter requires the intervention of the Assembly. All these conditions are fulfilled, because it has been stated on the floor of the House and it is of a recent occurrence; it requires the interference of Assembly because it pertains to the Assembly. It is on the Bill which has been passed by both the Houses and to which consent has not yet been obtained. Whether it is wrong or right, we have to discuss later on. Whether the Chief Minister or a Minister has done the wrong thing, all these matters come not at this stage. The member is well within his rights with regard to Rules 178 and 179. Now, the question is Rule 180. Here, I would like to read the entire rule, because many a time, without reading the rules carefully we go on arguing. Therefore, I would like to read it. "The Speaker, if he gives consent under Rule 177 and holds that the matter proposed to be discussed is in order", Unless

you see that it is in order, you would not allow a member to rise it at all. Then "shall, after the questions and before the list of business is entered upon, call the member concerned" My point is now that you have called upon the member concerned, I say that this rule 177 has been taken note of. To quote Rule 177 and say that it cannot be discussed is not correct. There is no Point of Order there. Now, I will proceed with this "call the member concerned, who shall rise in his place and while asking for leave to rise the question of privilege make a short statement relevant thereto". He has been asked and he has raised it; he is in his seat. He has been asked to make a statement and he is doing it. "Provided further that where the Speaker has refused his consent under rule 177 or is of opinion that the matter proposed to be discussed is not in order, he may, if he thinks it necessary, read the notice of privilege and state that he refuses consent or holds that the notice of privilege is not in order." Sir, the prerogative of the Speaker also can be exercised when he completes. If you are not satisfied with his explanation and if you think this need not be allowed, you have the authority under this Rule 180 to refuse your consent. Then, there is the further proviso: "Provided further that the Speaker, may, if he is satisfied about the urgency of the matter": It is not a 'must'; I do not know if 'may' has the force of shall. He may or may not. In one case 'shall' is also used and 'may' is also used. It is left to the discretion of the Speaker. It is not a directive to the Speaker. If he is satisfied, he may allow the question of privilege to be raised at any time after the questions and before the list of business: now, he is going on with his statement. The question that was raised by the hon. Leader of the Opposition is whether there is any document behind what the hon. member says with regard to privilege motion. If the support of the document is not there, I agree that he cannot be allowed to raise this motion. What is that document? The document is a statement made by the Minister on the floor of the House. We have even allowed statements that appeared in some press or public platform. Whatever is stated in the press are brought here and so many questions are raised in the House. Sometimes they are allowed and sometime, they are not. I am not holding brief to Mr. Armughum or some body. Let us put the record straight. Whether to discuss this or not, is left to you first and then to the House. If we cannot depend on this and if this proposition is accepted, I am afraid it will create a precedent in future and whatever is stated here and recorded cannot be a document. It comes to that. May be it refers to a Chief Justice of a Court or Hon. Judge of a court now, but to-morrow it may refer to some one else. Whatever is stated here should be proved to be incorrect and if it is correct, action should accrue.

Therefore, if we cannot depend on what is stated here i. e., on the Floor of the House the precedent that we are going to create will be disastrous. This is my humble opinion. There ore, I feel there is no point of order.

ಶ್ರೀ ಜೆ. ಎಚ್. ಪಟೇಲ್ :—ಈಗ ಏನಾಗಿದೆಯೆಂದರೆ ಸುತ್ತಿ ಸುತ್ತಿ ನಾವು ಯಾವುದನ್ನು ಚರ್ಚೆ ಮಾಡಬಾರದೋ ಅದನ್ನೇ ಮಾಡುತ್ತಿದ್ದೇವೆ, ಈಗ ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳು ಬಹಳ ಕಷ್ಟಪಟ್ಟು ರೂಲ್ ೧೭೭, ೧೭೮ ಎಲ್ಲವನ್ನೂ ಓದಿದರು. ಡಾಕ್ಯುಮೆಂಟಾಗಲೀ ಫೈಲಾಗಲೀ ಮುಖ್ಯ ಎಂದು ನಾನು ತಿಳಿದುಕೊಂಡಿಲ್ಲ. ಕಾನೂನು ಮಾಡಿದ್ದು ತಪ್ಪೇ ಸರಿಯೇ ಅಥವಾ ಅದನ್ನು ಮಾನ್ಯ ಮುಖ್ಯ ನ್ಯಾಯಾಧೀಶರ ಅಭಿಪ್ರಾಯವನ್ನು ಕೇಳುವುದಕ್ಕೆ ಕೊಟ್ಟಿದ್ದು ತಪ್ಪೇ ಸರಿಯೇ ಎಂಬ ಬಗ್ಗೆ ಏನೂ ಹೇಳುತ್ತಿಲ್ಲ. ಆ ಪ್ರಶ್ನೆ ಅನಾವಶ್ಯಕ.

ಅಧ್ಯಕ್ಷರು :—ತಾವು ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್ ಮೇಲೆ ಮಾತ್ರ ಮಾತನಾಡಿ. ವಿವರಣೆ ಕೊಡುವುದಕ್ಕೆ ಹೋಗಬೇಡಿ.

ಶ್ರೀ ಜೆ.ಎಚ್. ಪಟೇಲ್ :— ಆ ಬಗ್ಗೆಯೇ ನಾನು ಹೇಳುವುದಕ್ಕೆ ಹೊರಟಿದ್ದೇನೆ. The point of order can be raised on either any of the provisions of the Rules of Procedure or more relevant is on the Constitution, My point of order is on the Constitution. itself ೨೧೧ ರಲ್ಲಿ ನಿರ್ದಿಷ್ಟವಾಗಿ ಹೇಳಿದ್ದಾರೆ, ಸ್ಪೀಕರ್ ಲೆಫ್ಟಿನೆಂಟ್‌ನವರು ಯಾವುದೇ ನ್ಯಾಯಾಧೀಶರ ಬಗ್ಗೆ ಚರ್ಚೆ ಮಾಡುವ ಹಕ್ಕಿಲ್ಲ ಎಂದು.

SRI G. B. SHANKAR RAO.—I would like to know whether there is a second point of order on this issue ?

MR. SPEAKER.—If the House wants to discuss this matter throught the day, I have no objection. Let the hon. Member resume his seat. I will give a chance to him later. Now, Sri J. H. Patel to continue his speech.

ಶ್ರೀ ಜೆ ಎಚ್. ಪಟೇಲ್ :—ಈಗ ನಾನು ಹೇಳುವುದೇನೆಂದರೆ ನಾವು ಯಾವುದನ್ನು ತಪ್ಪು, ಸರಿ ಎಂದು ಚರ್ಚೆ ಮಾಡುವುದಕ್ಕೆ ಹೊರಟಿದ್ದೇವೋ ಅದನ್ನು ಮಾಡುವುದಕ್ಕೆ ನಮಗೆ ಅಧಿಕಾರ ಇಲ್ಲ ಎಂದು ಹೇಳುತ್ತಿದ್ದೇನೆ. ನ್ಯಾಯಾಧೀಶರು ಏನಾದರೂ ತಪ್ಪು ಮಾಡಿದ್ದರೆ ಅವರನ್ನು ರಿಮೂವಲ್ ಮಾಡುವುದಕ್ಕೆ ಅಥವಾ ಇಂಪೀಚ್‌ಮೆಂಟ್ ಮಾಡುವುದಕ್ಕೆ ಮಾತ್ರ ಅವಕಾಶ ಇದೆ. ಸೆಕ್ಷನ್ ೧೨೧ನ್ನು ಇನ್ನೊಂದು ಸಾರಿ ಓದುತ್ತೇನೆ.

It is to be noted that the word duties in the present Article is not qualified by the word "Judicial". The immunity is not therefore restricted only to Judicial Duties of a Judge. It will extend to the acts performed by such a Judge in the discharge of any duties imposed upon by him law....."

SRI P. K. RANGANATHAN.—That has already been told.

ಶ್ರೀ ಜೆ. ಎಚ್. ಪಟೇಲ್ :—ಈಗ ನಾವು ಫೈಲನ್ನು ಏತಕ್ಕೆ ಕೇಳುತ್ತೇವೆಂದರೆ During the discharge of his duties ಹೌದು ಅಲ್ಲವೂ ಎಂದು ತೋರಿಸುವುದಕ್ಕೆ ಕೇಳುತ್ತೇವೆ. ಹೇಳಿಕೆ ಯನ್ನು ಏತಕ್ಕೆ ಕೇಳುತ್ತೇವೆಂದರೆ ರೂಲ್ ೧೭೭ರ ಪ್ರಕಾರ, ೧೭೮ರ ಪ್ರಕಾರ ಇವರು ಕೊಟ್ಟಿರುವ ನೋಟೀಸ್ ವೈಧಾನಿಕವಾಗಿ ಇದೆಯೋ ಇಲ್ಲವೋ ಎಂಬುದಕ್ಕೋಸ್ಕರ ಕೇಳುತ್ತೇವೆ. ಒಂದು ವೇಳೆ ಜಡ್ಜ್ ತಪ್ಪು ಮಾಡಿದ್ದರೆ ಈ ರೀತಿ ತಪ್ಪು ಮಾಡಿದ್ದಾರೆ ಎಂದು ಪಾರ್ಲಿಮೆಂಟಿನವರು ಅವರನ್ನು ರಿಮೂವ್ ಮಾಡುವುದಕ್ಕೆ ಅಥವಾ ಇಂಪೀಚ್ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಇದೆಯೇ ಎನಹ ನಮಗೆ ಜಡ್ಜ್ ಬಗ್ಗೆ ಡಿಸ್‌ಕಸ್ ಮಾಡುವುದಕ್ಕೆ ಅಧಿಕಾರ ಇಲ್ಲ, ಆದರೆ ಇಲ್ಲಿ ಜಡ್ಜ್ ವಿಷಯ ಡಿಸ್‌ಕಸ್ ಮಾಡುತ್ತಿದ್ದೇವೆ.

ಇದು ಬಹಳ ದೊಡ್ಡ ತಪ್ಪಾಗುತ್ತದೆ, ಆದ್ದರಿಂದ ಇದಕ್ಕೆ ಅವಕಾಶ ಕೊಡಬಾರದು. ಅದನ್ನು ನಾನು ಹೇಳುವುದಕ್ಕೆ ಹೊರಟಿದ್ದೇನೆ. Under 211, there is no power at all. Under 121; if the Judge has committed any breach of privilege or even if he has committed anything worth-taking action, it can only be taken in the Parliament and the Parliament can only take action. There can impeach and remove him and no discussion is allowed here. This is my submission.

†SRI G.B. SHANKAR RAO (Hirekerur) :—The Hon. Leader of the Opposition has raised a point of order. The Hon. Speaker was good enough to say that there should be only one point of order at a time. The Hon. Member Sri J.H. Patel has raised another point of order. Unless one point of order is disposed of and decision given by the Hon. Speaker, there should not be another point of order. If this is allowed, then there is no end for raising the points of orders in the House. The Hon. Speaker has to give a ruling on the point of order raised by the Hon. Leader of the Opposition. The Hon. Leader of the House has given a reply on the point of order raised by the Hon. Leader of the Opposition. Then, if at all anything to be said by way of clarification, it is only the Leader of the Opposition who could seek such clarifications and not any other hon. Member. Any way, the opinion has been given. Whether it was a voluntary opinion or given at the instance of the Government is not a point before us at this stage. Is it correct on the part of any Judge of the High Court or the Chief Justice to give an opinion? He must have refused to give the opinion. Supposing advertantly or inadvertently if the Government asks for an opinion, I don't think he has got the right to give his opinion. He should have said "I cannot interfere before the Bill gets the assent". The opinion was given and the House has got every right to discuss it. It is not given in the course of any of his duties as the Chief Justice of the High Court. He should have given the opinion when the Bill was passed, and anybody has approached the High Court.

SRI M. VEERAPPA MOILY.—I would like to mention a few points on this question of point of order.

MR. SPEAKER.—Where is the necessity for the hon. Member to interfere on this point of order?

†SRI M. VEERAPPA MOILEY (Karkal)—I am trying to assist the House to come to a certain conclusion. Every Member has got a right to assist this House to come to a certain conclusion and if the House does not want, I need not rise it. We are at the stage of granting the leave not either under 177 or 178. The reading of this particular rule is very clear. If the leave under Rule 180 is granted, then

there are two stages. One stage is—raising the question of privilege. Then, Rule 178 says as follows :—

“A member wishing to raise a question of privilege shall give notice in writing to the Secretary before the commencement of the sitting on the day the question is proposed to be raised. If the question raised is based on a document, the notice shall be accompanied by the document.”

The Hon. Leader of the Opposition has raised the point of order under Rules 177 and 178. They are totally irrelevant. They could raised the objection under rule 180 and that could have been very relevant for discussion. At this stage insisting upon a document is not relevant. This is point No. 1.

Secondly, I have gone through the Privilege Motion submitted by hon. Member C. M. Armugham. After all noting is not a document as alleged by some of the hon. Members. The sum and substance of the matter is with regard to obstruction for getting the approval to the Bill. So far as this issue is concerned the noting of the Hon'ble Chief Justice is not the sole document. There may be so many other documents supporting this particular move. So these points could as well be raised in case this matter is referred to the Privileges Committee or a Committee appointed by this House. So, even if it is held that it is necessary to produce the documents under rule 178, my submission will be, this is not only the document connected with the Privilege Motion. The relevant point for consideration is obstruction for the approval of the Bill is done by a certain individual and that is the main issue before this House.

Then, another point was raised by Sri J. H. Patel. Hon. Member Sri J. H. Patel referred to Article 241 of the Constitution of India. I will read Article 241.

“No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties”.

We are not referring to the conduct of a Judge nor we are discussing about the opinion. In this connection I would like to read Article 225 of the Constitution of India. It reads :

225. Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on the Legislature by this Constitution the jurisdiction of, and the law administered in, any existing High court and the respective powers

Justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of

Members thereof sitting alone or in Division Courts....

I just quoted this Article so that the Leader of the Opposition would agree with me on this point. After all discharge of duty is different from administering the justice. This was conceded by the hon. Member Sri Lakshmisagar. The Hon. Chief Justice gave his opinion on the Bill in the intermediary period. That is after passing the Bill and before it gets assent of the Governor. So, we are not contemplating any sort of discussion under Article 211 of the Constitution nor we are at the stage of rules 177 and 178.

SRI J.H. PATEL—Please read Article 121 also. It defines 'duties'

SRI M. VEERAPPA MOILEY—Sir, hon. Member Sri J.H. Patel refers to Article 121. I will read that. Article 121 says :

"No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided".

But so far as Privilege Issue that is before us is concerned this Legislature is absolutely competent to discuss. We are not questioning the conduct of a Judge. We are only discussing the breach of privilege committed by an individual. We are not discussing here the conduct of a Judge through this Privilege Motion. In view of this the points of order raised by Sri S. R. Bommai, Leader of the Opposition and the hon. Member Sri J.H. Patel are not at all relevant. It may be relevant at the appropriate stage and it can be taken up at that stage. This is my submission.

SRI S.R. BOMMAI—Sir, I would like to make a point clear. The Hon. Chief Minister was submitting on certain presumption that the Chair has already consented for a discussion under Rule 177. Therefore, the record has to be corrected. The Hon. Chief Minister is not correct in saying that the Chair has given consent under rule 177. And then, we have not passed the stage to discuss the Privilege Motion under rule 180. At this stage the hon. Member Sri Armugham is only submitting his preliminary submission to seek the consent of the Hon. Speaker under rule 177. Therefore, it is clear that permission has not been given to discuss this privilege issue. The Hon. Chief Minister by mistake has stated that consent has already been given. This has to be corrected.

Secondly, if the opinion is given by the Chief Justice in his individual capacity why the Law Minister and the Hon. Chief Minister interfered and referred the matter to the Chief Justice. Why they have referred to the Chief Justice for his opinion? Therefore, the first breach of privilege is being committed by the Hon. Chief Minister.

ಅಧ್ಯಕ್ಷರು—ತಾವು ಈಗ ಇದರ ಮೇಲೆ ಚರ್ಚೆಯನ್ನೇ ಪ್ರಾರಂಭ ಮಾಡುವುದಕ್ಕೆ ಹೋಗುತ್ತಿದ್ದೀರಲ್ಲಾ ?

SRI S. R. BOMMAI—Arguments were advanced that the opinion was given in his individual capacity. If that is so the first man who has committed the breach of privilege will be the Hon. Chief Minister and also the Hon. Law Minister. There was no necessity to refer the matter to the Chief Justice. Therefore, they have committed the Breach of Privilege in the first instance. Because soon after the passing of that Bill they should send it to the Governor for his assent. But it was sent to the Chief Justice for his opinion.

Secondly, the document is absolutely necessary before notice being considered.

ಅಧ್ಯಕ್ಷರು—ನೀವು ಸಂಬಂಧಪಟ್ಟ ವಿಷಯದ ಮೇಲೆ ಮಾತನಾಡಲಿಕ್ಕೆ ಹೋಗಿಲ್ಲವಲ್ಲಾ.

(ಶ್ರೀಮತಿ ಎಸ್. ಪ್ರಮಿಳ ಮಾತನಾಡಲು ಎದ್ದು ನಿಂತುಕೊಂಡರು)

ಅಧ್ಯಕ್ಷರು—ಮಾನ್ಯ ಆರ್ಮಿಗಂರವರು ಈ ಬಗ್ಗೆ ಹೇಳುತ್ತಾರೆ, ತಾವು ಕುಳಿತುಕೊಳ್ಳಿ.

ಶ್ರೀಮತಿ ಎಸ್. ಪ್ರಮಿಳ—ಪಾಯಿಂಟ್ ಆರ್ಡರ್ ಮೇಲೆ ನನಗೆ ಮಾತನಾಡಲು ತಾವು ಅವಕಾಶ ಕೊಡಿ.

(ಶ್ರೀ ಮೆಳ್ಳೂರು ಆನಂದರಾವ್ ಮತ್ತು ಕುಮಾರಿ ಎಸ್. ಪ್ರಮಿಳ ಅವರು ಮಾತನಾಡಲು ಎದ್ದು ನಿಂತುಕೊಂಡರು)

ಅಧ್ಯಕ್ಷರು—ತಾವುಗಳು ಈ ರೀತಿ ವರ್ತನೆ ಮಾಡುತ್ತಾ ಇರುವುದು ಸರಿಯಾದುದಲ್ಲ.

(ಶ್ರೀ ಮೆಳ್ಳೂರು ಆನಂದರಾವ್ ಮತ್ತು ಶ್ರೀಮತಿ ಎಸ್. ಪ್ರಮಿಳ ಮತ್ತೆ ಕೆಲವು ಸದಸ್ಯರು ಮಾತನಾಡಲು ಎದ್ದು ನಿಂತರು)

ಅಧ್ಯಕ್ಷರು—ಈ ಬಗ್ಗೆ ಮಾತನಾಡುವುದಕ್ಕೆ ೩-೪ ಜನರಿಗೆ ಅವಕಾಶ ಕೊಟ್ಟಿರೂ ಕೂಡ ಮತ್ತೆ ಪುನಃ ಈ ರೀತಿ ವರ್ತನೆ ಮಾಡುತ್ತಾ ಇರುವುದು ಸರಿಯಾದುದಲ್ಲ.

(ಮತ್ತೆ ೪-೫ ಜನ ಮಾತನಾಡಲು ಎದ್ದು ನಿಂತರು)

ಅಧ್ಯಕ್ಷರು—ಹೀಗೆ ೪-೫ ಜನರೂ ಕೂಡ ಮಾತನಾಡಲು ಎದ್ದು ನಿಂತರಲ್ಲಾ ತಮಗೆ ರೂಲ್ಸ್ ಆಫ್ ಪ್ರೊಸೀಜರ್ ಏನಾದರೂ ಗೊತ್ತಿಲ್ಲವೇ?

SRI M. V. RAJASEKHARAN—Sir, I think we are going into the details That a part so many other matters are brought here. The whole difficulty is that the Chair is allowing everybody to speak on the preliminary discussion.

ಶ್ರೀ ಜಿ.ಎಸ್. ಶಿವನಂಜಪ್ಪ — ಅಧ್ಯಕ್ಷರೇ, ನಾನು ಈ ಹಿಂದೆನೇ ಒಂದು ಸಾರಿ ಕಾಂಡಕ್ಸ್ ಆಫ್ ಜಡ್ಜ್ ಮೇಲೆ ತಾವು ರೂಲಿಂಗ್ ಕೊಡಿ ಎಂದು ಕೇಳಿದ್ದೆ. ತಾವು ಇದುವರೆಗೂ ಆ ಬಗ್ಗೆ ರೂಲಿಂಗ್ ಕೊಡಲಿಲ್ಲ. ಮೊದಲೇ ಈ ಬಗ್ಗೆ ರೂಲಿಂಗ್ ಕೊಟ್ಟಿದ್ದರೆ ಈಗೂ ಈ ಸದನದಲ್ಲಿ ಈ ರೀತಿಯಾದಂಥಾ ಒಂದು ಸನ್ನಿವೇಶ ಉಂಟಾಗುತ್ತಿರಲಿಲ್ಲ. ತಾವು ಆಮೂಲಿನ ದಿವಸ ಈ ಕಾಂಡಕ್ಸ್ ಆಫ್ ಜಡ್ಜ್ ಬಗ್ಗೆ ರೂಲಿಂಗ್ ಕೊಟ್ಟಿದ್ದರೆ ಈಗೂ ಈ ದಿವಸ ಆ ರೂಲಿಂಗ್ ಮೇಲೆ ಏನು ಕೇಳುವುದಕ್ಕೂ ಕೂಡ ಅವಕಾಶ ಇರಲಿಲ್ಲ. ಇದು ಬಹಳ ಮುಖ್ಯವಾದ ವಿಷಯವಾಗಿರುವುದರಿಂದ ತಾವು ಈ ಬಗ್ಗೆ ರೂಲಿಂಗ್ ಅನ್ನು ಕೊಡಬೇಕು ಎಂದು ಕೇಳುತ್ತೇನೆ.

ಅಧ್ಯಕ್ಷರು — ಆ ಬಗ್ಗೆ ರೂಲಿಂಗ್ ಕೊಡುತ್ತೇನೆ. ಆದರೆ ಅದಕ್ಕೆ ಸ್ವಲ್ಪ ಕಾಲಾವಕಾಶ ಬೇಕಾಗುತ್ತದೆ. ಅಲ್ಲಿಯವರೆಗೆ ಸ್ವಲ್ಪ ನಿಧಾನಮಾಡಬೇಕು.

2-30 P.M.

SMT. S. PRAMILA (Chamarajpet).— Sir, I wish to bring to your kind notice the provisions of articles 233 234 and 235 which deal with appointment of Judges. recruitment of persons other District Judges to the judicial services control over subordinate courts. If the Chief Justice has done it in the discharge of his duties under article 211, no matter can be discussed in the House and a privilege motion cannot be raised here. This is a very sensitive matter.

SRI B. N. REDDY.—Sir, I request you to allow discussion only on the point of order raised by Sri Bommai regarding production of documents. ಇವರ ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್‌ನ್ನು ಡಿಸ್ಮಿಸ್ ಮಾಡಿದಮೇಲೆ ಇನ್ನೊಂದು ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್‌ನ್ನು ತಾವು ಅಲೋ ಮಾಡಬೇಕು.

ಅಧ್ಯಕ್ಷರು.— ಸೆಕೆಂಡ್ ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್ ಇಲ್ಲವೇ ಇಲ್ಲ.

ಶ್ರೀಮತಿ ಪ್ರಮಿಳ.— ನಾನಾಗಲೇ ತಿಳಿಸಿದಂತೆ, ಆರ್ಟಿಕಲ್ 213ರ ಪ್ರಕಾರ ಹಾಗೂ 213ರ ಪ್ರಕಾರ ಯಾವುದೇ ರೂಲ್‌ನ್ನು ಮಾಡಿದರೂ ಸಹ ಅದಕ್ಕೆ ಹೈಕೋರ್ಟಿನ ಸಲಹೆಯನ್ನು ಪಡೆಯಬೇಕಾದ್ದು ಮ್ಯಾಂಡೇಟರಿ.

ಅಧ್ಯಕ್ಷರು.— ಮಾನ್ಯ ಸದಸ್ಯೆಯವರು, ಈಗಾಗಲೇ ಸದಸ್ಯರುಗಳು ಹೇಳಿರತಕ್ಕ ವಿಷಯಗಳನ್ನು ಹೇಳಿದೆ, ಬೇರೆ ಯಾವುದಾದರೂ ಪಾಯಿಂಟ್‌ಗಳು ಇದ್ದರೆ ಮಾತ್ರ ಹೇಳಬೇಕು.

ಶ್ರೀಮತಿ ಎಸ್. ಪ್ರಮಿಳಾ.— ನಾನು ಮಾನ್ಯ ಆರ್ಮ್‌ಗಂ ಅವರಿಗೆ ಅನುಕೂಲವಾಗಲಿ ಎಂದೇ ಹೇಳುತ್ತಿದ್ದೇನೆ. ಆರ್ಟಿಕಲ್ 211ರ ಹೇಗೆ ಬಾರ್ ಎನ್ನುವುದನ್ನು ತಮಗೆ ತೋರಿಸುತ್ತೇನೆ. ಆರ್ಟಿಕಲ್ 213ರ ಪ್ರಕಾರ ಕನ್‌ಸಲ್ಟೇಷನ್ ವಿತರಿಸಿ ಹೈಕೋರ್ಟ್ ಮ್ಯಾಂಡೇಟರಿ. ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳು ಕನ್‌ಸಲ್ಟೇಷನ್ ಮಾಡಿದಾಗಲೂ ತಮ್ಮ ಉತ್ತರದಲ್ಲಿ ಆಗಲೇ ಹೇಳಿದ್ದಾರೆ. ಆದ್ದರಿಂದ ಇದು ಇಲ್ಲಿ ಚರ್ಚೆಯಾಗುವುದು ಅನಾವಶ್ಯಕ. ಇದೇ ವಿಷಯದಲ್ಲೇ ಸುಪ್ರೀಂಕೋರ್ಟಿನವರು ಸಹ ತಮ್ಮ ತೀರ್ಮಾನವನ್ನು ಕೊಟ್ಟಿದ್ದಾರೆ. ಸುಪ್ರೀಂ ಕೋರ್ಟಿನವರು ತೀರ್ಮಾನ ಕೊಟ್ಟಮೇಲೆ ಇದು ಕಾನೂನು ಆಗುತ್ತದೆ. ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳು ಏಕೆ ಕನ್‌ಸಲ್ಟೇಷನ್ ಮಾಡಿದೆ ಎನ್ನುವುದಕ್ಕೆ ಕಾರಣಗಳನ್ನು ಹೇಳಿದ್ದಾರೆ.

ಅಧ್ಯಕ್ಷರು.— ನಾನು ಮಾನ್ಯ ಸದಸ್ಯರಾದ ಆರ್ಮ್‌ಗಂ ಅವರು ಕೊಟ್ಟಂಥ ನೋಟೀಸ್ ಆರ್ಡರ್‌ನಲ್ಲಿಯೂ ಇಲ್ಲವೇ ಎನ್ನುವುದರ ಬಗ್ಗೆ ಮಾತನಾಡಲಿಕ್ಕೆ ಅವಕಾಶ ಕೊಟ್ಟಿದ್ದೇನೆ.

SRI A. LAKSHMISAGAR. Sir, Miss Pramila is trying to make a point that article 211 is a bar. She says that she has authorities with her and in support of her argument that article 211 goes to the very root of the matter and acts as a bar to our discussion of the conduct of a

Judge or Chief Justice by way of a privilege motion she wants to make a submission. Let us hear her.

SMT. S. PRAMILA.—What I wish to submit is that article 211 acts as a bar. Whether this House has got the jurisdiction to discuss this is the prime question which has to be decided first. Under article 234 consultation with the High Court in regard to appointments of persons other than district judges to the judicial service of a State is mandatory. Therefore, if consultation has been done in accordance with the Constitution and if powers have been exercised in accordance with the Constitution, the question is whether that can be a matter for discussion in this House. According to me, there is a bar for discussion of such matter on the threshold itself.

ಈಗ ಕೊಟ್ಟಿರುವ ನೋಟೀಸ್ ಜೊತೆಯಲ್ಲಿ ಅದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಡಾಕ್ಯುಮೆಂಟ್ಸ್ ಸಹ ಇರಬೇಕೆಂದು ಹೇಳುತ್ತಿದ್ದಾರೆ. ಇದೇ ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್ ಎಂಬುದು ನನಗೂ ಗೊತ್ತು. ಇದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಏನು ಹೇಳಿದ್ದಾರೆ, ಅದೇ ಡಾಕ್ಯುಮೆಂಟ್ಸ್ ಎಂದು ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳು ಹೇಳುತ್ತಾರೆ. ಆದರೆ ಅದು ಸರಿಯಲ್ಲ. ಏಕೆಂದರೆ, ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಈ ವಿಚಾರದಲ್ಲಿ ಚಿಫ್-ಜಸ್ಟೀಸ್ ಅವರ ಒಪಿನಿಯನ್ ತೆಗೆದುಕೊಂಡಿದ್ದೇವೆಂದು ಹೇಳುತ್ತಾರೆಯೇ? ಹೊರತು, ಆ ಒಪಿನಿಯನ್ ಏನು ಎಂಬುದನ್ನು ಹೇಳಿಲ್ಲ. ಮತ್ತು ಅವರ ಒಪಿನಿಯನ್ ಏನೆಂಬುದು ನಮ್ಮ ಮುಂದೆ ಇಲ್ಲ. ಅವರ ಒಂದು ಒಪಿನಿಯನ್ ಮೇರೆಗೆ ರಾಜ್ಯಪಾಲರು ತಮ್ಮ ಅನುಮತಿಯನ್ನು ತಡೆಹಿಡಿದಿದ್ದಾರೆನ್ನುವುದಕ್ಕೆ ನಮ್ಮ ಮುಂದೆ ಈಗ ಯಾವ ದಾಖಲೆಯೂ ಇಲ್ಲ. ಮತ್ತು ಚೀಫ್-ಜಸ್ಟೀಸ್ ಅವರ ಒಪಿನಿಯನ್ ಮೇಲೆ ರಾಜ್ಯಪಾಲರು ತಮ್ಮ ಒಪ್ಪಿಗೆಯನ್ನು ತಡೆಹಿಡಿದಿದ್ದಾರೆಂದು ಎಲ್ಲಿಯೂ ಹೇಳಿಲ್ಲ. ಜೊತೆಗೆ ಇಷ್ಟೇ ಅವಧಿಯಲ್ಲಿ ರಾಜ್ಯಪಾಲರು ತಮ್ಮ ಒಪ್ಪಿಗೆ ಕೊಡಬೇಕೆಂದು ರಾಜ್ಯಾಂಗದಲ್ಲಿ ಕೂಡ ಹೇಳಿಲ್ಲ. ಆರ್ಟಿಕಲ್-200ರ ಸಂದರ್ಭದಲ್ಲಿ ಇದಕ್ಕೆ ಅಷ್ಟು ಆಗುತ್ತದೆ; ಏಕೆಂದರೆ, ನಮ್ಮ ಮುಂದೆ ಇದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಡಾಕ್ಯುಮೆಂಟ್ಸ್ ಇಲ್ಲ. ಆದಕಾರಣ ಇದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ವಿಚಾರವನ್ನು ಈಗ ಇಲ್ಲಿ ಚರ್ಚೆಗೆ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಬರುವುದಿಲ್ಲವೆಂದು ಹೇಳುತ್ತೇನೆ. ಜೊತೆಗೆ ಆರ್ಟಿಕಲ್-200ರ ಪ್ರಕಾರ ಇದಕ್ಕೆ ಕಾನ್ಸಿಟ್ರಾಷನ್ ಬಾರ್ ಇದೆ. ಈ ಎಲ್ಲ ಕಾರಣಗಳಿಂದ ಈ ವಿಷಯ ವನ್ನು ಈಗ ಇಲ್ಲಿ ಚರ್ಚೆಗೆ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಬರುವುದಿಲ್ಲವೆಂದು ಹೇಳುತ್ತೇನೆ.

†SRI C.M. ARMUGHAM.—The only point I have raised is that there is breach of privilege of the House. The breach of privilege is about an outsider interfering with the process of legislation. When a Bill is passed naturally it goes for the assent of the Governor. Nowhere in the Constitution it is stated that we should not raise a breach of privilege in respect of any Judge. I am not bringing this privilege question under Art. 211, discussing the conduct of a Judge. The Hon. Leader of the Opposition was saying that document necessary is not accompanying the notice. The document is the statement or speech of the Minister for Law and Social Welfare. The speech is not that of Sri Havanur but it is one coming from the Government. That is the document I believe which comes from the Government itself, and that is the document on which I rely. We cannot treat the opinion of the Chief Justice just as a scrap of paper. That is not so because from the stage of introduction of the Bill till it gets the assent of the Governor the process of legislation is carried on.

therefore before the Bill gets assent from the Governor nobody can interfere saying that this House is not competent. Any such statement amounts to breach of privilege. Under Art. 229 the Chief Justice can frame rules, I am depending on what the Minister for Law has stated. I request the House just to think for a moment. If the Chief Justice gives an adverse opinion and the Bill goes to the Governor for assent, naturally he will be influenced by the opinion furnished by the Chief Justice. If assent is given and somebody challenges in a court, the Chief Justice may come bench and refer the case to it. There also his opinion on the Bill will be there. The Judges will be influenced by his views. Therefore what I am submitting is, before a Bill gets the assent of the Governor any interference by anybody should be construed as a breach of privilege and contempt of the House.

The hon. member Sri A. Lakshmisagar has said that except the President who can ask the opinion of the Supreme Court on a particular point of law, at the State level the Governor is not competent to seek the opinion of the Judge. I agree, it is not provided under any law. I am not questioning any working or conduct of judges or any Judge. That is not at all the point. Let us not mix up issues. This is an independent issue, There is breach of privilege of the House and contempt of the House.

SMT. S. PRAMILA.— By whom ?

SRI C. M. ARMUGHAM.— Sri Chandrasekhar, the present Chief Justice. Therefore it is my submission that you must permit me to raise it, and all other points.

MR. SPEAKER.— The issue is whether the action of the Chief Justice in giving his opinion about the Bill as passed by the House in the circumstances indicated in the proceedings of House, involves a question of privilege. In the third para of the Notice given by the hon. member Sri C. M. Armugham, it is stated as follows:—

“A revelation of the Hon'ble Minister for Law, Social Welfare and Backward Classes while replying to the debate on the Demands for Grants of his ministry on the floor of the House yesterday that the Chief Justice of Karnataka High Court has expressed his opinion that the Legislature of Karnataka have no competency of passing such a Bill and trying to stall the Bill from getting assent”.

In addition, I have already read the relevant portion of the speech of the Hon'ble Minister for Law that has gone into the records

of the proceedings of the House. So, it becomes a part of the document of the House. I have only called upon the Member only to make a preliminary submission, I have not yet given my consent to the Privilege issue. I reserve my Ruling on this issue.

Now let us take up the next item on the Agenda.

PAPERS LAID ON THE TABLE

SRI AZEEZ SAIT (Minister for Industries & Commerce).—Sir, on behalf of the Minister for Revenue, I lay:—

“Notification No. RB/REV/SR-158, dated 9th, May 1979

Approval of A newari proposals in respect of Rabi Crops in the villages of Indi Taluk, Bijapur District, for the year 1978-79.

Under sub-section 2 of section 194 of the Karnataka Land Revenue Act, 1964.”

I lay:—

“ i) 38th Annual Report and Accounts of the Mysore Chrome Tanning Co., Ltd., Bangalore, for the year 1977-78.

ii) 45th Annual Report of the Mysore Sugar Company Ltd., Bangalore, for the year ending 30th June, 1978 and Annual Accounts with Audit Report for the year ended 31st March, 1979,

Under Section 619-A (3) of the Companies Act, 1956.”

MR. SPEAKER.—The papers are laid.

CALLING ATTENTION TO MATTERS OF URGENT PUBLIC IMPORTANCE

(i) *re : non-availability of accommodation at Girls High School, at Car Street, Mangalore.*

SRI U. T. FAREED (ullal).—I call the attention of the Minister for Education to the hardship being caused to the students of Girls High School, at Car Street, Mangalore, due to non availability of accommodation.

SRI B. SUBBAYYA SHETTY (Minister for Education).—I wish to make the following statement.

In the wake of Government decision to store and to distribute Nationalised Text-Books, a District Book Depot had to be set up at Mangalore in the year 1965. There was space available in Government Girls' High School, Car Street, Mangalore as the said School